

Rachel S. Doughty (SBN 255904)
J. Rae Lovko (SBN 208855)
GREENFIRE LAW, PC
2748 Adeline Street, Suite A
Berkeley, CA 94703
Ph/Fx: (510) 900-9502
rdoughty@greenfirelaw.com
rlovko@greenfirelaw.com

Attorneys for Plaintiff, As You Sow

Nicholas J. Hoffman
Samuel L. Tarry
McGUIREWOODS LLP
Wells Fargo Center – South Tower
355 S. Grand Avenue
Los Angeles, CA 90071-3103
(213) 457-9840
nhoffman@mcguirewoods.com
starry@mcguirewoods.com

Attorneys for Defendant, Etsy, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

AS YOU SOW, a 501 (c)(3) non-profit
corporation,

Plaintiff,

v.

Etsy, Inc., and DOES 1-20, inclusive

Defendants,

Case No. 24-cv-04203-MMC

**JOINT CASE MANAGEMENT
CONFERENCE STATEMENT**

Judge: Hon. Maxine M. Chesney

Date: February 28, 2025

Time: 10:30 a.m.

Place: Video Conference

As You Sow (“AYS”) and Etsy, Inc. (“Etsy”) reached a settlement in this matter on December 26, 2024.¹ They have now agreed to the final language of the settlement and the proposed consent judgment containing the agreement is being circulated for signatures. It should be filed by early the week February 24, 2025. Because this settlement resolves a claim made under the California Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”), reporting to the California Attorney General and court approval of the settlement is required.²

I. LAW

By California law, the settlement must be reported to the Attorney General of the State of California (“AG”). Cal Health & Saf. Code § 25249.7(f)(2). Plaintiff has an obligation to notify the AG of a settlement within five days of the date the matter is “Subject to a Settlement.” 11 Cal. Code Regs. (“CCR”) § 3003(a). Subject to a Settlement means:

that a written settlement agreement has been signed by the private enforcer and the alleged violator, or an oral agreement has been stated on the record in court in such manner as to render the agreement enforceable pursuant to [Code of Civil Procedure section 664.6](#), even if the settlement is contingent on the entry of a judgment pursuant to stipulation or other judicial approval.

11 CCR § 3001(a).

A noticed motion must be filed for court approval of a Proposition 65 settlement:

If there is a settlement of an action brought by a person in the public interest under subdivision (d), the plaintiff shall submit the settlement, other than a voluntary dismissal in which no consideration is received from the defendant, to the court for approval upon noticed motion, and the court may approve the settlement only if the court makes all of the following findings:

(A) The warning that is required by the settlement complies with this chapter.

(B) The award of attorney’s fees is reasonable under California law.

(C) The penalty amount is reasonable based on the criteria set forth in paragraph (2) of subdivision (b).

Cal. Health & Saf. Code § 25249.7(f)(4). The Noticed motion must also be served upon the California Attorney General, which has 45 days to review the same.³ *Id.* at (f)(5); 11 CCR §

¹ The matter has been assigned number 2024-01113 by the California Attorney General. *See* <https://oag.ca.gov/prop65/60-Day-Notice-2024-01113>.

² The matter also involves a claim under California’s Unfair Competition Law, settlement of which does not require court approval.

³ Note that “the fact that the Attorney General does not object or otherwise respond to a settlement shall not be construed as endorsement of or concurrence in any settlement.” 11 CCR § 3003(a).

3003(a). As a result, no hearing on a motion to approve can be set prior to 45 days after filing of a motion to approve.

II. AGREED SCHEDULE FOR MOTION TO APPROVE

1. Counsel for AYS will file a notice with this Court within 2 business days of obtaining the signed written settlement agreement.
2. Counsel for AYS will comply with the “Subject to a Settlement” requirements to notify the AG by five days after the written settlement agreement is signed by the parties.
3. Counsel for AYS will file noticed motion for approval, with supporting papers, within 10 business days after the parties sign the written settlement agreement, which it will provide to the AG on the same day.
4. Counsel for AYS will request a hearing on the matter on the first available Friday at 9:00 am following the expiration of the required 45-day AG review period.

III. REQUEST TO TAKE CASE MANAGEMENT CONFERENCE OFF CALENDAR

The Parties respectfully request that the case management conference, scheduled for February 28, 2025, be taken off calendar.

Respectfully Submitted,

Dated: February 21, 2025

By /s/ Rachel S. Doughty
Rachel S. Doughty
GREENFIRE LAW, PC
Attorneys for Plaintiff, As You Sow

Dated: February 21, 2025

By /s/ Nicholas J. Hoffman**
Nicholas J. Hoffman
McGUIREWOODS LLP
Attorneys for Defendant, Etsy, Inc.

***Pursuant to Civil L.R. 5-1(i)(3), the electronic signatory has obtained approval from this signatory*

CERTIFICATE OF SERVICE

I hereby certify that on February 21, 2025, I electronically transmitted the foregoing document to the Clerk's Office using the CM/ECF System for filing and service via transmittal of a Notice of Electronic Filing.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on February 21, 2025, at Los Angeles, California.

/s/ Nicholas J. Hoffman

Nicholas J. Hoffman

McGuireWoods LLP